

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

CLOVERDALE UNIFIED SCHOOL  
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH Case No. 2015040053

ORDER DENYING REQUEST FOR  
CONTINUANCE WITHOUT  
PREJUDICE AND VACATING  
MEDIATION

On April 6, 2015, Parent on behalf of Student filed a request to continue the dates in this matter based upon her unavailability for the mediation and hearing dates using Office of Administrative Hearings Request for Joint Continuance Form.<sup>1</sup> However, there is not indication on the form that Parent met and conferred with the Cloverdale Unified School District, or served a copy of her request for continuance on Cloverdale.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request and considered all relevant facts and circumstances. The request to continue the prehearing conference and due process hearing dates is denied

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<sup>1</sup> As of this date, Parent has not provided OAH with documentation indicating that Parent hold Student's education rights. OAH is addressing that issue with Parent separately from this order.

without prejudice as Cloverdale is entitled to notice of Student's request for continuance. Mediation is voluntary and therefore, OAH accepts Parent's representation that she Student is unavailable for mediation on April 9, 2015, as a request to cancel the mediation. Accordingly, the mediation is canceled.

Parent is encouraged to contact Cloverdale to discuss submitting a joint request for continuance and a request to reset the mediation date. In the event that Cloverdale does not agree to continue the case, Parent may file another request for continuance to OAH. With that request for continuance, Parent must provide proof that Parent served Cloverdale with the request for continuance. OAH's website <http://www.dgs.ca.gov/oah/Home.aspx>, provides information regarding the continuance process as well as other helpful information regarding the special education due process hearing process.

IT IS SO ORDERED.

DATE: April 7, 2015

/s/

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B. ANDREA MILES  
Administrative Law Judge  
Office of Administrative Hearings